

**MADISON COUNTY PLANNING BOARD
MEETING MINUTES
JANUARY 29, 2007**

BOARD MEMBERS PRESENT: Lane Adamson, Dorothy Davis, Kathy Looney, Dave Maddison, Bill Olson, Laurie Schmidt, Ann Schwend, Pat Bradley, John Lounsbury, Eileen Pearce and Ed Ruppel.

BOARD MEMBERS ABSENT: NONE

OTHERS PRESENT: Ted Liss, Justin Houser, Dan Child, Bruce Klein, Tom Henesh, Bob Sumpter, Mike Ducuennois, Jay Willett, Troy White, Andy and Albee Willett, Rocky Hermanson, Art Hoffart, Clifford Morris, Maureen Curnow, Bob and Margie Reck, Ed Curnow, George Ennis, Lucy Ennis, Jone Shimelonis, Henry H. Harrison, Jerry Shaw, Justin Lower, Rick Landers, Dave Hajny, Barbara Reynolds, Director of Planning Doris Fischer, Planner 1 Staci Beecher, and Board Secretary Marilee Foreman Tucker.

MOTION: To approve the minutes of the November 27, 2006 meeting as presented, as well as the minutes for the site tours of Big Sky, Indian Ridge and Shadow Ridge. **Moved by:** Ann Schwend, **seconded by:** Kathy Looney. **All voted aye.**

President's Comments: Today is my last meeting as President. I thank all of you for your help.

Public Comment: Bob Sumpter of the Yellowstone Club commented that it had been a pleasure to work with Bill and the esteemed Planning Board this past year.

OLD BUSINESS

Development Impact Fees

Doris reported that local emergency service providers and the County Commissioners had met to discuss the findings of Tischler-Bise, the consultant firm on development impact fees. Three areas of county operations were targeted for possible use of impact fees, (1) county courthouse, (2) fire protection (3) law enforcement. Tischler-Bise findings illustrated that it would take a number of years to recoup the cost of the impact fee calculation study which could cost \$50,000. The consultant concluded that Madison County is not growing fast enough at this time for impact fees.

Ted Liss, Chairman of the Madison Valley Rural Fire District Board, said that the legislature needs to re-examine the laws pertaining to impact fee requirements. He said the initial investment would take 20-25 years to recoup in fees. He also stressed that impact fees properly collected and administered would be a real asset. He said that where he had lived previously, it took many years of collection to build a fire hall. He also said that the county's consultant charges more than necessary to do the study.

Board and public discussion:

- What is a fast growth rate considered to be? Our growth is considered to be moderate and we are growing at 6% over the last five years.

Revised Citizens Guide to Planning in Madison County

Staci reviewed the draft of the document, which is an easy guide for the public and a work in progress. Planning Board comments were favorable.

Madison Growth Solutions

Doris reported on the work session held on Friday, January 26, 2007, to help citizens in the Madison Valley “tweek” the Madison Valley Growth Plan, primarily the verbiage having to do with zoning. Members of the Planning Board who attended were Lane, John, Kathy, Pat, Dorothy and Eileen, as well as staff members Doris and Staci. The gathering was divided into working groups to discuss pros and cons of the plan. Some new wording that was generally more acceptable was arrived at. Zoning was discussed as to county initiated zoning and citizen initiated zoning. Compensation to land owners was a topic covered as well. A draft of the findings will be sent out to interested parties, the topic will be revisited by the Planning Board at their next meeting, and the County Commissioners will then hold public hearings on the revision.

PUBLIC HEARING ON AMERICAN SPIRIT SUBDIVISION, BIG SKY (Yellowstone Development, LLC, landowner)

Doris presented an overview of the Yellowstone Club Master Plan and the proximity of the American Spirit Subdivision to Rainbow Lodge and Rainbow Subdivision. American Spirit is proposed within 176 acres with 40 residential lots with ski-in and ski-out capabilities. The sizes range from .75 acre to 16 +- acres. New homesites will connect with YMC water and sewer. This enables the day lodge and cabins to hook up as well.

Bob Sumpter of the Yellowstone Club raised questions about a few of the conditions recommended in the staff report.

Public Comment: None

Discussion and Questions:

- No mutual aid agreement between Gallatin Canyon Rural Fire and Yellowstone Club.
- Steep slope in a portion of the property. Should not be building there.
- Must avoid the wetlands.
- Avoid stream and natural drainages for construction.
- White bark pine and aspen should be retained as they are important to wildlife.
- There is a lack of year-round secondary (emergency) access.
- Need an emergency evacuation plan.
- Functionality of Highway 64 needs to be addressed.
- Are there perennial streams on the property? *No.*

- Subdivision Regulations need to clarify what “a stream” is.
- An agreement between Gallatin Canyon Rural Fire District and developments at Big Sky for mutual aid fire protection needs to be arrived at.
- What is the nature of the wetlands restoration? *It is part of the Yellowstone Club’s settlement with the federal government.*
- If Yellowstone Club comes in with another preliminary plat application and there isn’t a year-round emergency route, then there will be great cause for concern.

MAIN MOTION: To recommend approval of the Preliminary Plat for American Spirit Subdivision with Doris’s conditions. Moved by: Dave Maddison, **seconded by:** Laurie Schmidt.

AMENDMENT TO THE MOTION: Revise Condition #12 to indicate that “stream” will be defined by final plat, and revise Condition #15 to read, the Yellowstone Club shall demonstrate significant progress on the construction of a paved year-round emergency access from this site, built to Madison County or Gallatin County (as applicable) standards, before Madison County accepts another preliminary plat application from the Yellowstone Club for review. Moved by: Laurie Schmidt, **seconded by:** John Lounsbury. **All voted aye.**

VOTE ON MAIN MOTION: All voted aye.

PLANNING BOARD RECOMMENDATION

Based on the subdivision application, staff report, January 29th public hearing, and subsequent review and discussion, the Planning Board recommends preliminary plat approval be granted to the American Spirit Subdivision in the Yellowstone Mountain Club, subject to conditions listed below.

Standard conditions:

1. Any and all adopted State and County requirements and standards which apply to this proposed subdivision must be met unless otherwise waived for cause by the governing body.
2. A notarized declaration of “Right to Farm” and “Emergency Services Information” must be filed with the final plat (See Appendix T, Madison County Subdivision Regulations).
3. The final plat must be accompanied by a certification by a licensed title abstractor showing the owners of record, the names of any lienholders or claimants of records against the land, and the written consent to the subdivision from any lienholders or claimants of record against the land.
4. All subdivision road, utility, and emergency access easements shall be clearly shown or cited on the final plat.
5. Future modification of any elements shown on the plat may not be made without County review and approval.

Additional site-specific conditions:

6. Prior to final plat approval, the Montana Department of Environmental Quality must approve the subdivision for water and sewer. DEQ approval of stormwater management plans must be submitted prior to either final plat approval or Madison County's release of any financial guarantee funds associated with this project (see Condition #9 below).

7. Prior to any construction requiring sanitation, a Madison County septic permit must be obtained for the lot being developed.

8. The face of the final plat shall include a statement regarding the availability of the geotechnical report, as well as a statement indicating that site-specific geotechnical investigations for foundation, grading, and drainage design are required prior to actual construction.

9. Prior to final plat approval, all subdivision roads shall be constructed by the developer in accordance with the results of a site-specific geotechnical investigation and in compliance with the design standards outlined in the November 2000 Madison County Subdivision Regulations, as amended in May 2003. This includes American Spirit Road, whose as-built condition must, prior to final plat approval, be engineer-certified as meeting Madison County (or AASHTO) standards. The subdivision roads will be classified as "high-density, mountainous roads" (See p. 47 of the regulations). Road signs must be installed, and reseeding of disturbed areas must occur. All road and walkway maintenance, including but not limited to grading, snowplowing, and snow removal, shall be the responsibility of the landowner, not Madison County. In the event that new roads, sewer, water, or other such improvements are not completed prior to the final plat submission, an Improvements Agreement and irrevocable Letter of Credit or equivalent guarantee (see Subdivision Regulations, Appendix M) shall be filed with the Board of County Commissioners prior to final plat approval. The amount of the financial guarantee shall be 125% of the engineer's (or contractor's) estimated cost for the improvements. Any financial guarantee must cover the time period needed to complete project improvements.

10. Prior to final plat approval, lots must be assigned a *temporary* physical address in accordance with the Madison County rural addressing and Emergency 911 system (Individual address signs may be installed as each building is developed).

11. A building envelope plan shall accompany the final plat, or the final plat shall identify the building envelopes (subdivider's choice). If the subdivider chooses to submit a building envelope plan, the County Planning Office shall serve as a repository for the plan. Proposed building envelope changes shall require County review and approval. The face of the final plat shall reference the building envelope plan. Building envelopes shall avoid slopes >25% and natural drainages.

12. The final plat shall show a 100' building setback from any stream ("stream" to be defined by final plat).

13. Prior to final plat approval, the subdivider shall submit a copy of the 404 wetlands permit(s) pertinent to this development site.

14. Prior to final plat approval, the subdivider shall submit an emergency access and evacuation plan that has been reviewed and approved by the Gallatin or Madison County Sheriff and the Madison County Office of Emergency Management. Further, the subdivider shall prepare an emergency access and evacuation plan pamphlet. The final plat shall refer to this plan and indicate that the Yellowstone Club will furnish a copy to all lot buyers.

15. The developer shall demonstrate significant progress on a paved emergency access route built to Madison County or Gallatin County (as applicable) standards, before Madison County accepts another YC preliminary plat for review.

PUBLIC HEARING AND PRELIMINARY PLAT REVIEW OF BEAR CREEK ESTATES SUBDIVISION, CAMERON, (Rocky Hermanson, Art Hoffart and Troy White, landowners)

Doris introduced the proposed subdivision as a less dense version of the developer's previous submittal. The plan is for 8 single family residential homesites. She reviewed her staff report and distributed recent letters from Melinda Merrill and Robert and Doreen Kennedy.

Andy Willett, representative for the landowners, discussed the proposed application, using several exhibits, and he submitted a hydrology report.

Discussion and Questions

- Ted Liss- Chairman of the Madison Valley Rural Fire District, commented that the proposed subdivision is a distance from town and fire hall.
- Need verification of abandonment of the second ditch.
- What is the disposition of the land? It has been split into three parcels since the first subdivision application.
A survey was filed with three parcels. The remainder tracts were immediately conveyed. The County Commissioners have asked that the survey be vacated. The County Attorney has said that the Planning Board should proceed with review of this project.
- Bob Reck, Bear Creek landowner-There are active irrigation ditches going through the property that are used by Red Mountain Ranch and Bear Creek Angus Ranch. Elk are going to go wherever they want to go. They do not respect fences.
- No fences, except possibly yard fences, are to be allowed on the property other than temporary fencing for grazing the grass when needed.
- Andy Willett- After problems with the last proposal the developers convened town meetings. They also met with Craig Jourdonnais of FWP and the planning staff. Clustered development was rejected at the community meeting.
- Rick Landers, representing Bear Creek area landowners Marc Lenert and Bill Ramsey- His clients are opposed to the subdivision on several grounds: that there will be increased traffic of an estimated 35 trips a day on Bear Creek Loop which is in need of structural repair, visual impact in the Sphinx Mountain area which is a popular tourist photograph site, impact on migration of wildlife, will tax county services (there should be an analysis of the impact), not reflective of Bear Creek

corridor neighborhood, not happy about the invalid filing of the plat with remainders, and not consistent with the Guiding Principles of the Madison County Comprehensive Plan...subdivision should be denied.

- Bob Reck-The land is listed with Reed Real Estate as a 243 acre piece, not a subdivision.
- Andy Willett- The Comprehensive Plan is a factor. Doing three lots with fencing would be far worse for wildlife. Project does not reflect ranchette style development.

MOTION: To follow the Staff Report recommendation and recommend denial of Bear Creek Estates as it stands. Moved by: Pat Bradley, **seconded by:** John Lounsbury.

Additional Discussion:

- There is a good amount of space for animals to move around. Roads could be pared down, houses sharing roads, with greater setbacks from creek. This development has bigger wildlife corridors and open space than a lot of subdivisions.
- There are serious concerns about water supply. The nearest well is 560' deep with a gpm of 15. The hydrology report does not satisfy the water adequacy questions.

VOTE ON PAT'S MOTION: Nine ayes and one nay. Motion carries.

PUBLIC HEARING AND PRELIMINARY PLAT/VARIANCE REVIEW OF INDIAN RIDGE SUBDIVISION, ENNIS, (Indian Ridge Joint Venture/Moilanen Family Trust, landowner)

Staci introduced the project as a 31.6 acre piece with 12 single family residential lots and 10.6 acres of open space located ½ mile west of Ennis. She pointed out the unique features of the area as being bench land, ravine and lower hillside. She spoke of the variance request which is for the board to accept a 1,500' cul de sac vs. the maximum 750' length allowed in the County Subdivision Regulations. Two letters from the public with concerns about the project were distributed to the Planning Board and were from Dave Hajny and Ron and Kathy Humphrey. One letter of comment from an agency was received from Chris Mumme of Madison County Emergency Management.

Tom Henesh (representative of the developers)- By not doing the emergency egress down the hill, it will help the viewshed for Antelope Meadows and the rest of the neighborhood. Roofs can be treated with fire retardant materials and vegetation can be similarly treated. By using the Antelope Meadows route for emergency access, it is good for the subdivision and Antelope Meadows. Potential "through traffic" is a concern for the neighbors. In Gallatin County they put in "break away" gates and fences accompanied by a sign saying "dead end" or "not a through street". Developers want to preserve the "E" on the hillside.

Discussion and Questions

- George Ennis, adjoining landowner-Neighbors are concerned about water and possible impacts to their wells. Impact on pronghorn is a concern. This is labeled as

“affordable”, but wonder what that means. The density seems high, especially considering 11 wells and septic tanks. If the Antelope Meadows Loop Rd. was utilized, the neighbors are concerned about increased traffic with people driving through Antelope Meadows to Valley Garden Golf Village and Indian Ridge.

- Ted Liss- The fire district has concerns over the length of the cul de sac. City water hydrants would make the longer cul de sac feasible. Lots 11 and 12 would be difficult to get to with an ordinary fire engine. We need to work on something for this outside of this meeting.
- Henry Harrison- Access is a big concern. If a road is there, it will be used and would be detrimental to Antelope Meadows. Does Antelope Meadows share with the development, the cost of the RID?
- Dave Hajny- Will be difficult to get an easement agreement from 60 landowners along the way. Getting out to the Vista Grande Road still doesn't get you to the highway.
- Barbara Reynolds- Why is Vista Grande involved in Condition #14? There is a potential water problem as many wells here have 2-7 gpm at 600' depth. We hope that they would have to do extensive testing for viable wells.
- Ann- What about removing Lots 11 and 12? Is that viable? *No.* Has the ditch been officially abandoned? *No.*
- Dave- We're forcing them to use the hillside emergency access. There aren't really any burnable fuels to speak of. That egress is not solution to the problem.
- George Ennis- My wife and I do not oppose the variance or joining the two roads. We oppose Condition #14.
- Eileen- Wasn't there a variance given in another subdivision in this area? Yes, *Centennial Heights.*
- What is the length of the cul de sac for Centennial Heights? *1200-1300'.*
- John- This is a tough one. A dilemma over fire safety, liability and safety. It sets a precedent. Can we go back with the people and look at it again?

MAIN MOTION: Recommendation to approve the variance. Moved by: Eileen Pearce, **seconded by:** Dave Maddison.

AMENDMENT TO THE MOTION: That the developer work specifically with Madison Valley Fire District, Madison County Emergency Management and other emergency services to reduce the fire risk factors on the site. Moved by: Ann Schwend, **seconded by:** Ed Ruppel. **All voted aye.**

VOTE ON THE MAIN MOTION: All voted aye.

MAIN MOTION: To recommend approval of the preliminary plat of Indian Ridge Subdivision with Staff Report conditions. Moved by: Dave Maddison, **seconded by:** Laurie Schmidt.

AMENDMENT TO THE MOTION: Strike Condition #14 from the conditions of approval. Moved by: Dave Maddison, **seconded by:** Dorothy Davis. **All voted aye.**
VOTE ON THE MAIN MOTION: All voted aye.

PLANNING BOARD RECOMMENDATION

Based on the subdivision application, staff report, January 29th, 2007 public hearing, and subsequent review and discussion, the Planning Board recommends preliminary plat approval be granted to Indian Ridge Subdivision, subject to the conditions listed below.

[Standard conditions]

1. Any and all adopted State and County requirements and standards which apply to this proposed subdivision must be met unless otherwise waived for cause by the governing body.
2. A notarized declaration of “Right to Farm” and “Emergency Services Information” (Appendix T. of November 2000 Madison County Subdivision Regulations) must be filed with the final plat.
3. The final plat must be accompanied by a certification by a licensed title abstractor showing the owners of record, the names of any lienholders or claimants of record against the land, and the written consent to the subdivision from any lienholders or claimants of record against the land.
4. Road and utility easements shall be clearly shown and labeled on the final plat. Utility easements must be granted to the Town of Ennis and the Valley Garden Golf Village Homeowners Association for both water lines running through Lot 1. These easements must be shown on the final plat and their widths must be acceptable to the grantees.
5. Future modification of any elements shown on the plat may not be made without County review and approval.

[Additional site-specific conditions]

6. Prior to final plat approval, DEQ must approve all lots for water, sewer, solid waste, and storm drainage.
7. Prior to any construction requiring sanitation, a Madison County septic permit must be obtained for the lot being developed.
8. Prior to final plat approval, each lot must be assigned a *temporary* physical address in accordance with Madison County’s rural addressing and Emergency 911 system. Individual address signs shall be installed once permanent addresses are assigned.
9. Prior to final plat approval, the public access subdivision road shall be constructed by the developer in compliance with the design standards outlined in the November 2000 Madison County Subdivision Regulations, as amended. The subdivision road shall be classified as a “mountainous road” with “high density.” (See page 47 of the regulations). The subdivision road cul-de-sac shall be constructed with a minimum 50 ft. radius with a finished road top acceptable to the Madison Valley Rural Fire Department. Road signs must be installed, and reseeding of the disturbed areas

must occur. All road maintenance, including but not limited to grading and snowplowing and removal, shall be the responsibility of the landowners, not Madison County. In the event that the roads and other such required improvements are not completed prior to the final plat submission, an Improvements Agreement and irrevocable Letter of Credit or equivalent guarantee (see Subdivision Regulations, Appendix M.) shall be filed with the Board of County Commissioners prior to final plat approval. The amount of the Letter of Credit shall be 125% of the engineer's estimated cost for the improvements. Any letter of credit must cover the time period needed to complete project improvements.

10. The face of the final plat shall contain two RID/SID waiver statements, one pertaining to community water systems and the other pertaining to primary access roads.
11. The final plat must identify the building envelopes (as per the setbacks shown on the preliminary plat) which include all buildings for each lot, **or** a building envelope plan shall accompany the final plat (subdivider's choice.) If the subdivider chooses to submit a building envelope plan, the County Planning Office will serve as a repository for the plan. Proposed building envelope changes shall require County review and approval. The face of the final plat shall reference the building envelope plan.
12. Prior to final plat approval, an underground cistern of at least a 10,000 gallon capacity shall be installed on-site, and under the specifications acceptable to the Madison Valley Rural Fire District. Maintenance of the cistern and its above-ground connection shall be the ongoing responsibility of the subdivision. In the event that the fire protection facility installation is not completed prior to the final plat submission, the facility shall be covered under the Subdivision Improvements Agreement described above.
13. Prior to final plat approval, the unused ditch located to the west of the existing West Madison Canal must be officially abandoned.

PRE-APPLICATION REVIEW OF LOWER SUBDIVISION, MCALLISTER, (David and Jerry Wing Revocable Trust, landowner)

Doris described the proposal as 969 acres with 18 residential lots and 88 acres of open space. There would be 329 acres in a conservation easement.

Bruce Klein of Bechtle-Slade showed maps and described building envelopes, preservation of wetlands, water rights, cultural resources and general location. They plan to build a 270' span bridge to go over the wetland in the northeastern part of the property. The water rights will be kept on the family homestead lot, with the ditch for same being maintained.

Discussion and Questions

- Will there be further splits? *No.*

- Wells will be drilled for each lot previous to sale.
- Will there be fencing? *No.*
- Will there be grazing? *No.*
- The developers' intent is to minimize the impacts on the land and leave open space.
- The Lower family approached several conservation groups about easements and none were interested in doing so.
- The loop road appears close to the creek.
- Washington Bar Loop Road gets steeper and very "clayey" just west of this site.
- Wetlands area in northeast corner is extensive.

NEW BUSINESS

Nominating Committee Report and Elections for President, Vice-President

MOTION: To elect Ann Schwend as President of the Planning Board. Moved by: Dave Maddison, **seconded by:** Pat Bradley.

Discussion: Ann mentioned that the President is the voice of the Planning Board and she didn't want to have an appearance of conflict of interest as her husband has gone to work for Gateway Engineering and they will be bringing projects before the Planning Board. The President controls the tone of the meeting.

Vote on the motion: All voted aye.

MOTION: To elect John Lounsbury as Vice President of the Planning Board. Moved by: Lane Adamson, **seconded by:** Laurie Schmidt. **All voted aye.**

Madison Valley Wildlife Conservation Assessment

The board determined that they would like to have an informational session on this wildlife assessment an hour prior to a meeting sometime. Doris will set this up.

Montana Legislative Session

Doris and Ann distributed legislative summaries with bills pertaining to planning. Ann reported on several pieces of legislation that should be kept tract of:

- LC 325- Restricting submission of zoning proposals.
- SB 361- Change the number of parties supporting citizen initiated zoning from 60% to 40%.
- HB 262- Exempt Well status.
- LC 360- (Diane Rice) Revise zoning district laws.

Wetland Mapping Project

Doris related to the board that there is an opportunity for them to support a funding proposal by the MT DEQ and Natural Heritage Program. These agencies are interested in mapping wetlands and riparian areas in Southwest Montana. They would like minimal financial support from the county for doing the study on those features. Doris said that Madison County could contribute \$500 this fiscal year and \$500 the next fiscal year.

MOTION: Recommend that Madison County provide a letter of support and give \$1000 for this project, doing \$500 one year and \$500 the next. Moved by: Laurie Schmidt, seconded by: Lane Adamson. All voted aye.

Draft Annual Report

Doris explained that it is required by State law to do such a report. Ann suggested adding the fact that Doris has participated as technical advisor to the Ruby Watershed Council.

Powell Planning Workshop

Ann announced that the workshop is to be held at Chico Hot Springs, March 26-28 and there are a couple of openings for participants for the Ruby Watershed Council's team. It is a competitive process.

Planning Board Member Reports

Pat- It was interesting to hear Andy Willett say that this is kind of hard (dealing with the Bear Creek project) because there isn't any zoning.

Bill- We should put on the March agenda a discussion about limiting projects in the Madison County side of Big Sky until the mutual aid problem there can be resolved. The subject of highway improvements in that area needs to be addressed as well.

Discussion- Due to the Sonoran Institute Powell Planning Workshop and attendance by several members of the board, we need to move the date of the March meeting to April 2 with reminders to the board and public.

Laurie- Were there changes to the sizes of the building envelopes on the Reints' subdivision? *One was changed to 5 acres. The rest are 3.*

Doris- A river setback was denied on the Big Hole River for being too close to the river. The person has decided to build in an open area farther from the river.

Doris- The Bear Creek neighborhood meeting had 27 people in attendance and the consensus was that they want to work up a neighborhood plan. Andy Willett spoke of the need for zoning. A committee was established to look into this further.

The board opted not to continue to receive the Ennis Planning Board minutes.

The meeting adjourned at 11:52 p.m. The next Planning Board meeting will be February 26, 2007.

William J. Olson, President

Marilee Foreman Tucker, Secretary

Ann Schwend, President-Elect